

TITLE 329 SOLID WASTE MANAGEMENT BOARD

#05-181 (SWMB)

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On January 16, 2007, the solid waste management board (board) conducted the first public hearing/board meeting on new rules at 329 IAC 16 concerning electronic waste. Comments were made by the following parties:

Jim Parker, Vice President, Indiana Recycling Coalition	(IRC)
Lisa Laflin, Office of Strategic Planning, City of Indianapolis	(IC)
Julie Rhodes, Julie Rhodes Consulting	(JRC)
Eric Goldsmith, Vice President, Goldsmith Group, Inc.	(GGI)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: My name is Jim Parker. I own a company called New Genesis down in Plainfield—down in Mooresville, Indiana. I'm here speaking on behalf of the Indiana Recycling Coalition. I'm their Vice-President, and I represent the business sector.

And we'd like to thank the Board for their efforts, and we actually—we support the rulemaking process that you're going to hear for each draft. The IRC has been working for over four years helping to educate the public and businesses about the proper disposal of e-scrap in the State of Indiana. The e-scrap initiative that was spearheaded by Julie Rhodes, one of our contractors, has made great inroads with the stakeholders and businesses in the government and the private sector around the state for the last year, year and a half, towards these efforts. We would like to pay particular gratitude to IDEM and their staff for their great support for our agency and also for this initiative. It was a great collaborative effort, and we think everything has gone really well. Through these efforts, and yours, we can make a difference for helping the Indiana environment to make a viable atmosphere that educates the public, develops business, and most of all, creates jobs in the State of Indiana. (IRC)

Response: The department also believes that this rule was a collaborative effort and appreciates the time interested parties spent helping to develop and refine rule language and explain the intricacies of the e-waste process. The department makes every effort to work with the workgroup and resolve any outstanding issues prior to presenting the rule to the board for preliminary adoption.

Comment: Mark has some fliers that actually are an outcrop of the —part of the promotion campaign that was sponsored by the initiative, and from time to time on the television. And also, this weekend on the Inside Indiana Business there was a feature and one of our videos that was actually sponsored by part of the IDEM grants initiative, and we think it's a wonderful program and we support your efforts. (IRC)

Response: Thank you. The promotion campaign is only one example of the necessity in completing this rulemaking to provide for consistent and fair rules for the collection, storage and disposal of electronic waste.

Comment: My name is Lisa Laflin. I'm with the Office of Strategic Planning for the City of Indianapolis, and I just come before you today to say thank you very much for allowing the City to become—be a part of the process that has brought this rule here today. We were very impressed with the inclusion of all voices in the electronic waste industry, everything from nonprofits to businesses to landfill and solid waste people, and we feel that the rule that's before you now is inclusive of everyone's opinions and ideas, and we're very pleased to be a part of it, and would just like to say thank you very much. (IC)

Response: IDEM appreciated the assistance of the City of Indianapolis and the staff's faithfulness in workgroup meeting participation. IDEM also thanks the city for providing meeting rooms for the workgroup that did not require attendees to pay for parking to attend the meeting.

Comment: My name is Julie Rhodes, and I am an independent consultant, and as Jim mentioned, I'm also the consultant that led Indiana Recycling Coalition's e-scrap effort, and still leading it, actually.

As Lynn's white paper demonstrates, e-scrap has been a growing issue across the country as well as in Indiana. I think once that studies showed that e-scrap failed toxicity testing more often than not, it became apparent that governments were going to be responsible to use that information to protect public health and the environment.

Given that information that's available today, I think it's wise that Indiana took a look beyond just cathode ray tubes and those items that contain cathode ray tubes, primarily the computer monitors and the television monitors, and looked at the entire list of electronics that contain lead in their circuit boards and mercury in the backlighting. (JRC)

Response: Thank you, Indiana's leaders are looking to the future. It is wise to regulate all e-waste in a clear and consistent manner. It is also easier for the regulated community to understand and comply with one set of rules.

Comment: Therefore, I applaud IDEM for getting ahead of this issue and making a rule that's broader than EPA's rule. EPA—a lot of the EPA testing came in after EPA had already started the process with the CRT's, so theirs is not as broad, but probably will, at some point, need to be.

I also applaud IDEM and their process of this rulemaking. The work group allowed a broad base of opinions, and the group worked towards consensus on the issues, and I think that was a really important process to come up with the rule that you're looking at today, but I believe that the new rule helps legitimize the electronics recycling industry.

Moreover, this rule will clear up the confusion about entities—about how entities must comply with solid and hazardous waste rules, and I think that was kind of the big problem and why this one-stop shop is really needed is that when someone would come to IDEM, they really didn't know how to interpret the hazardous and solid waste rules to figure out where they fell, so I think this is very useful in that regard.

I think it will also help generators, who we are constantly trying to educate on their responsibility here on proper management, as well as collectors and processors to understand how they can operate to better protect public health and the environment. (JRC)

Response: Thank you. IDEM agrees that one-stop shopping is the least confusing for the regulated community.

Comment: When making the rule, it's important to balance that need for protection with reasonable requirements of the small business that must comply with the rule—primarily I'm thinking about the recyclers and the reuse organizations—and I think that balance was struck well in requiring a registration instead of an all-out permit and not creating a situation that would be overly burdensome to cities and towns and solid waste districts that collect these scraps, or to the nonprofit and for-profit businesses engaged in reuse, DMP manufacturing and recycling here in Indiana. (JRC)

Response: The department's goal with the rulemaking was to make the rule environmentally protective without adding undue expense above regular operating costs.

Comment: I'm Eric Goldsmith, Goldsmith Group. First off, I'd like to thank IDEM and the IRC and the city and all of the other recyclers and other people that helped participate in this process. My first time in dealing with this, so pardon my lack of experience. I think that what the processes taught me as a recycler and, I think, a lot of the other recyclers, is we've never—as far as e-scrap, we've never has any type of rule to guide us. The EPA rule just came out, and on the state level, this is our first one, so I think it really gives us some guidelines on how we can best be a good participant in this process, in business, member of the community, et cetera. (GGI)

Response: The department thanks Mr. Goldsmith for his faithful and helpful participation in the rulemaking process. Without the input from the regulated community, staff would not have addressed issues in as knowledgeable a manner.

Comment: Overall, I think that there's a lot of great things that this rule has given consumers and businesses and the environmental people that really watch the environment for us. I don't think everyone has the time or the energy or the desire necessary to protect our environment. And so, when this comes up after being around e-scrap for probably close to forty (40) years as my path in doing this business, slowly but surely we learn more and more about the mercury in the land and all of the other hazardous materials in the —hazardous commodities in the material.

So, from my perspective, to have guidelines when they're telling me to run our business only guides me as someone who's looking at buying by father's business and then growing it here in the state and seeing where I can take it. (GGI)

Response: This rulemaking should make complying with the minimal standards of the rule easy to understand and to follow.

Comment: There's only one little thing that confuses me, and I really understand it, but I want to just at least state it, and that is the —and I stated it a moment ago, when I said e-scrap instead of e-waste, and I just want you to know that, to us, it's a commodity, and I understand that you don't regulate commodities, but it's still a commodity and it's not a waste. And we've talked about that in the rulemaking and everyone's dealt with it very well. Just—it still keeps

coming up, and sooner or later it's going to come up, so that's the only thing that confuses me at all is what do I tell my customers, what do I tell my employees, and will there be a point at someplace in the rulemaking laws that's going to affect my ability—as I make a capital investment in my business, my ability to convert it into a commodity and not as a waste? (GGI)

Response: Electronic waste can be and is a commodity for the e-waste processor. Regarding day to day business activity, e-waste is a commodity that is bought and sold. The department does not want to interfere in daily business activities. However, under the solid and hazardous waste rules, e-waste is a solid waste. The Solid Waste Management Board, as per the statute at IC 13-19-3-1, shall adopt rules ...to regulate solid and hazardous waste. The definition of “electronic waste” in the rule includes a reference to “electronic scrap”.

Comment: And other than that, I think everything is really great. I think it's a really solid rule. It seems to start us off on a good footing where I, as a businessperson, will be able to present our documents to the city, to the state, to customers, and my employees, and we'll be able to grow our business because of this.

And I think it'll help bring material—bring awareness to the business and government sectors and organizations that use electronics and help them understand that it needs to be properly managed after they're done with it. (GGI)

Response: Thank you.